

ADAIR COUNTY ATTORNEY

MELISSA S. LARSON

November 25, 2019

Sheriff Jeff Vandewater
Adair County Sheriff's Office
302 E. Iowa St.
Greenfield, IA 50849

Dear Jeff:

Please be advised that on November 21, 2019, the Iowa Division of Criminal Investigation (DCI) referred their investigative file to this office requesting a legal review concerning the circumstances surrounding the use of lethal force by Stuart Police Officer Tyler DeFrancisco, Guthrie County Deputy Kent Gries, and Guthrie County Deputy Steven Henry against Randall Comly on October 17, 2019 at 615 S.W. 7th Street, Apartment 1, Stuart, Adair County, Iowa.

The Iowa DCI conducted a detailed and thorough independent investigation into the incident, and their comprehensive investigative file contained over 50 exhibits, including audio files, written statements and reports, videos, transcripts, photographs, and sketches. These exhibits included officer bodycam videos, interviews with the four law enforcement officers present during the shooting, witnesses in or near the apartment at the time of the shooting, law enforcement officers present on the scene after the shooting, and investigators. Additionally, I had an opportunity to personally speak to Special Agent Don Schnitker with the Iowa DCI on multiple occasions regarding this incident.

Findings of Fact

Based upon my review of the investigative file, the facts can be summarized as follows:

On October 17, 2019, Stuart Police Officer Tyler DeFrancisco observed a vehicle he believed to be driven by Randall Comly parked at the South Summit Apartments in Stuart. Officer DeFrancisco confirmed that Randall Comly had two arrest warrants. Officer DeFrancisco called Guthrie County sheriff's deputy Kent Gries to discuss serving the arrest warrants.

Based upon that call, Guthrie County deputies Kent Gries, James Mink, and Steven Henry arrived in Stuart that evening to assist Officer DeFrancisco. At approximately 10:30 p.m., Deputies Gries, Mink and Henry, and Officer DeFrancisco approached the residence at 615 S.W. 7th Street, Apartment 1, Stuart, Iowa in an attempt to serve the arrest warrant on Randall Comly. The four officers were wearing police uniforms and were clearly identifiable as police officers. The officers

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knocked on the door of the apartment, and an adult male later identified as Joseph Reynolds answered the door.

Joseph Reynolds was known by police and was taken into custody for an arrest warrant. The officers questioned Reynolds about Randall Comly and whether he was inside the apartment, which Reynolds admitted. Comly's exact location inside the apartment was not disclosed. Deputy Gries, Deputy Mink, and Officer DeFrancisco entered the apartment to arrest Comly, announced that they were law enforcement, and called for him to show himself and resolve the situation peacefully.

While clearing the home, Deputy Gries discovered that someone was hiding in the closet and holding the sliding closet door closed in the bedroom to the south of the hallway. Deputy Gries believed it was Comly in the closet, and attempted to call to him to come out. When that did not prove successful, Deputy Gries requested Deputy Mink retrieve his police canine to assist. Deputy Gries was standing in the doorway to the bedroom where Comly hid in the closet, and Officer DeFrancisco stepped forward to provide cover and clear the remaining two rooms in the apartment.

As Officer DeFrancisco approached the bathroom door, Randall Comly exited the bedroom closet and charged toward the officers. Comly, who was armed with a .22 caliber handgun, fired at Deputy Gries and Officer DeFrancisco multiple times, striking areas on the wall and doorway near the officers' heads. Deputy Gries and Officer DeFrancisco returned fire and exited the apartment for cover. Deputy Henry, who was positioned outside near the bedroom window after taking Reynolds into custody, fired his gun into the front bedroom after discerning that was where the gunfire had originated. During the exchange, Comly was shot once in the upper shoulder area. Deputy Henry and Deputy Mink were hit by bullets that exited the building during the exchange of gunfire. Deputy Gries suffered powder burns to his eye and face after being in close proximity to Comly when he fired his gun. Once outside, the officers called for assistance, maintained cover on the residence, and attended to their injuries. Comly was still inside, his condition unknown at the time.

Upon investigative review of the weapons fired at the scene, Deputy Gries likely fired sixteen rounds, Officer DeFrancisco fired sixteen rounds, and Deputy Henry fired six rounds, all at Comly. Comly fired all six rounds from his revolver at Deputy Gries and Officer DeFrancisco.

After assisting law enforcement officers arrived on the scene, two females identified as Ashley Richards and Pam Richardson-Carr exited the apartment. They had hidden in the bathroom when they learned that law enforcement was outside. The women were able to inform the officers that

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Comly was alive but bleeding from a gunshot wound. After approximately a ninety-minute standoff, Comly exited the residence and was immediately taken into custody.

Investigation later revealed that some of the officers had information before attempting to serve the arrest warrant on Comly that Comly had made statements to the effect that he would not be going back to prison. Comly had been arrested in Guthrie County for intimidation with a weapon in an incident where he had gone to someone's home and shot a gun to intimidate them. He had an outstanding warrant for arson, based upon an incident where he allegedly burned down his paramour's trailer. Comly was also known to be a drug dealer.

Each of the four officers were interviewed by the Iowa DCI, as were Joseph Reynolds, Ashley Richards, and Pam Richardson-Carr. Reynolds knew that Comly was on the run due to warrants, and acknowledged that he informed the officers that Comly was present in the apartment. Richards reported going outside the apartment to look for law enforcement and pretending to get something out of a vehicle on the property. She saw Officer DeFrancisco parked down the street, and informed Comly that the officer was there. When officers knocked on the door, Richards told Comly that she thought it was the cops. He went into the bedroom and closed the door. She and Richardson-Carr hid in the bathroom, where they could hear officers enter the apartment and tell Comly to come out, and eventually the shooting began. Richardson-Carr confirmed that sequence of events and further stated that they could hear Reynolds being arrested from the bathroom.

Conclusions of Law

Iowa Code section 704 sets forth the law as it relates to self-defense and the use of deadly force. It provides that a person may use deadly force to prevent an injury or loss if it is reasonable to believe such force is necessary to avoid injury or risk to one's life or safety, or the life or safety of another, or it is reasonable to believe that such force is necessary to resist a like force or threat. Iowa Code § 704.1 (2019). Further, when a person who is justified in using reasonable force against an aggressor in defense of oneself uses such force, they are immune from both criminal and civil liability for any damages to the aggressor. Iowa Code § 704.13 (2019).

Having reviewed in detail the Iowa DCI case file, applicable statutes and case law, and other materials provided by the Iowa County Attorney's Association, I have concluded that the actions of Deputy Gries, Deputy Henry, and Officer DeFrancisco were reasonable. **Each one of these officers was justified in their use of deadly force during their encounter with Randall Comly.**

The officers knocked on the apartment door and identified themselves as law enforcement because they believed Comly, who had an arrest warrant, was present in the apartment. After their suspicion of Comly's presence was confirmed, the officers attempted to apprehend him. The officers called

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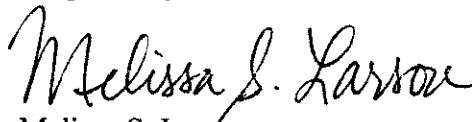
out to Comly and gave him an opportunity to present himself willingly. When they learned that it was likely that Comly had hidden in the bedroom closet and was holding the door closed, they attempted to employ the assistance of the police canine.

It was not until Comly charged from the closet with his gun and fired it toward the area around the officers' heads that Deputy Gries and Officer DeFrancisco opened fire. The surprise attack at such close range left these officers no choice but to fire their weapons in an attempt to stop Comly from murdering them in his effort to not go back to prison. Deputy Henry also attempted to stop Comly from outside the apartment by firing his weapon toward the bedroom from where the gunfire was originating, in defense of Deputy Gries and Officer DeFrancisco.

Comly's act of charging at the officers and shooting in their direction at close range was a clear, immediate, and deadly threat to their lives and safety. At that point, the officers were clearly reasonable in their belief that lethal force was necessary to defend themselves and one another. Although at least some of the officers had Taser guns in their possession, there was no way to safely deploy them. Likewise, there was no way for Deputy Gries or Officer DeFrancisco to safely retreat without firing their weapons. Deputy Henry knew that his fellow officers were under fire inside the apartment and attempted to stop the shooter in order to protect them. Deputy Gries, Officer DeFrancisco, and Deputy Henry were legally justified in firing their weapons at Randall Comly.

Having concluded that deadly force was justified under the circumstances, and that Deputy Gries, Officer DeFrancisco, and Deputy Henry were acting in self defense or defense of others, criminal charges would not be appropriate against them. These officers were forced by Randall Comly to react to an immediate and deadly threat to their life and safety as they attempted to lawfully take him into custody for a valid arrest warrant.

Respectfully submitted,



Melissa S. Larson
Adair County Attorney

Copies to:
Marty Arganbright, Guthrie County Sheriff
David Reha, Stuart Chief of Police
DCI, Special Agent Don Schnitker

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